



## **REQUEST FOR PROPOSAL**

**PROJECT TITLE:** Lease of Real Property, located at 306 Depot Square, Abingdon, VA 24210 (“Property”).

**ISSUE DATE:** August 25, 2021

The Town of Abingdon seeks bids for Lease of Property for a two-year period. Enclosed with this Request for Proposals are documents with the following titles: "General Terms & Conditions", "Formal RFP for Leasing Real Property" and “Attachments”.

**QUESTIONS:** Questions must be submitted in writing to the Contract Manager seven (7) business days prior to the specified closing date. An electronic message may be submitted to [aclifton@abingdon-va.gov](mailto:aclifton@abingdon-va.gov). If necessary, an addendum will be issued and posted on the Town website at [www.abingdon-va.gov](http://www.abingdon-va.gov). It is the responsibility of the offeror to download any addendum.

**SEALED PROPOSALS WILL BE RECEIVED UNTIL 4:00 p.m., prevailing local time on Thursday, September 23, 2021, at the Town Municipal Building, First Floor, 133 West Main Street, Abingdon, Virginia.**

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## TERMS AND CONDITIONS

1. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed by the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of this Agreement shall be resolved or otherwise litigated in the Circuit Court for Washington County, Virginia or the United States District Court for the Western District of Virginia at Abingdon. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual disputes. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

2. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offerors) certify to The Town of Abingdon that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious Contractor, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, §2.2-4343.1E).

In every contract over \$10,000 the provisions in 1 and 2 below apply:

A. During the performance of this contract, the contractor agrees as follows:

i. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

ii. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for purpose of meeting these requirements.

B. The contractor will include the provisions of 1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

3. **ETHICS IN PUBLIC CONTRACTING:** By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official

responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

4. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

5. DEBARMENT STATUS: By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Federal Government, Commonwealth of Virginia, or by any Town, Town or Town from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

6. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to The Town of Abingdon all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by The Town of Abingdon under said contract.

7. MANDATORY USE OF TOWN FORM AND TERMS AND CONDITIONS: Failure to submit a bid/proposal on the official Town form provided for that purpose may be a cause for rejection of the bid/proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid/proposal; however, The Town of Abingdon reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid/proposal.

8. CLARIFICATION OF TERMS: If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Town's Agent, or designee.

## PURPOSE

The purpose of this Request for Proposals (RFP) by the Town of Abingdon, Virginia (“Town”) is to solicit sealed proposals from interested buyers to lease the real property for a five-year period, namely the Passenger Station building, Town of Abingdon, owner, 306 Depot Square, Parcel No. 019-2-15, located within the Town of Abingdon, Virginia.

## BACKGROUND

### Property Description:

The current zoning on the property is OH Old and Historic District, which allows for certain general and professional business uses by right as well as additional business uses by special use permit. The full description of allowable uses may be found in the Town’s Zoning Ordinance, Article 8.

## PROPOSAL CONTENTS:

### **Tab 1: Introductory Letter**

The introductory letter shall name the person or persons authorized to sign contracts and be involved in any negotiations with the Town.

### **Tab 2: Approach to Addressing the Opportunity**

Please describe, in detail, the Offeror’s offer to lease the Property and address the following evaluation criteria.

## EVALUATION CRITERIA

Responses to the Town’s Request for Proposals will be based upon the following criteria. The criteria for evaluating the proposals submitted is estimated to take the following items into consideration:

1. The Offeror’s plan for use of the Property;
2. Description of Offeror’s business experience;
3. Types of improvements (if any) to be made by Offeror at the Offeror’s expense;
4. Targeted timeline for needed improvements, if applicable;
5. Proposed rent; and
6. Landlord/mortgage company references for the past two (2) years.

The Town will not rely upon a numerical scoring system in evaluating the proposals. The Town reserves the right to not be bound by the above criteria in making a selection or choosing not to make a selection. The order of the above items is not indicative of their priority or lack thereof. **THE TOWN RESERVES THE RIGHT TO ACCEPT OR REJECT ALL OR ANY PART OF ANY PROPOSAL, WAIVE INFORMALITIES AND AWARD THE CONTRACT TO BEST SERVE THE INTERESTS OF THE TOWN.**

## ATTACHMENTS

ATTACHMENT A. PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION FORM

ATTACHMENT B. STATE CORPORATION COMMISSION (SCC) FORM

ATTACHMENT C. NON-COLLUSION AFFIDAVIT

ATTACHMENT D. NOTICE OF EXCEPTIONS

ATTACHMENT E. LEASE AGREEMENT

## SUBMITTAL INSTRUCTIONS

The deadline for submittal of proposals in response to this RFP is **September 23, 2021, at 4:00 p.m.**

Proposals should be delivered as follows:

All proposals must be in an opaque, sealed envelope or box and clearly marked: "Sealed Proposal: Passenger Station RFP". Proposals shall clearly indicate the legal name, address and telephone number of the Offeror (company, firm, partnership, or individual). All expenses for making the proposal to the Town shall be borne by the Offeror.

Offerors shall provide five (5) identical paper copies of the proposal documents. If proprietary/confidential information is identified (Attachment A), Offeror is required to submit a redacted copy of their proposal in addition to the required number of proposals requested.

Proposal documents shall be mailed (P. O. Box 789, Abingdon, VA 24212-0789) or hand-delivered to Alicia Clifton, Contract Administrator, 133 West Main Street, First Floor, Abingdon, Virginia 24210. Office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., except Town holidays. Faxed or emailed proposals will not be accepted.

Proposals shall be received by the Contract Administrator no later than September 23, 2021, at 4:00 p.m. local time. Any proposals received after this date and time will not be accepted. The Town of Abingdon is not responsible for delays in delivery of the mail by the U.S. Postal Service, private couriers, or the inter-office mail system. The Offeror has the sole responsibility to have the proposal received by the Director of Economic Development and Tourism at the above address and by the above stated time and date. Proposals will not be publicly opened.

All documents contained within the proposal submission shall be completed in their entirety and signed and dated where required.

## QUESTIONS

Questions related to the RFP or requests for clarification shall be directed to Alicia Clifton, Contract Administrator for the Town of Abingdon, by email ([aclifton@abingdon-va.gov](mailto:aclifton@abingdon-va.gov)). Oral questions will not be permitted. All responses to inquiries will be in writing and will be posted as addenda on eVA at [www.eva.virginia.gov](http://www.eva.virginia.gov). All questions must be received no later than September 16, 2021 at 12:00 p.m. (noon) local time. It is the responsibility of all Offerors to ensure that they have received all addenda and to include signed copies of any and all addenda with their proposal submission.

## SCHEDULE

|                            |                                  |
|----------------------------|----------------------------------|
| RFP Bid Release:           | Wednesday, August 25, 2021       |
| Pre-Proposal Site Meeting: | September 14, 2021 at 1:00 p.m.  |
| Questions Deadline:        | September 16, 2021 at 12:00 p.m. |
| RFP Due Date:              | September 23, 2021 at 4:00 p.m.  |
| Anticipated Award Date:    | October 1, 2021                  |

## PROPRIETARY & CONFIDENTIAL INFORMATION

The Town promises to keep confidential, subject to the terms of this paragraph and to the extent permitted by law, Proprietary Information submitted in response to this Request for Proposal. For purposes of this paragraph, "Proprietary Information" means all confidential and/or proprietary knowledge, data or information in which

the Offeror has a protectable interest, including: (a) trade secrets, inventions, ideas, know-how, improvements, discoveries, developments, designs and techniques; (b) information regarding research and development, new products marketing and selling, business plans, licenses, records, facility locations, documentation, software programs, price lists, contract prices for purchase and sale of the Offeror's services, customer lists, prospect lists, pricing on business proposals to new and existing customers, supplier pricing, equipment configurations, ledgers and general information, employee records, mailing lists, accounts receivable and payable ledgers, budgets, financial and other records of the Offeror; and (c) information regarding the skills and compensation of other employees of the Offeror. "Proprietary Information" does not include, however, information that is publicly available or readily ascertainable by independent investigation. To qualify Proprietary Information for protection from disclosure, the Offeror must: 1) request protection of the Proprietary Information before, or contemporaneously with, submission of the Proposal; 2) identify the Proprietary Information to be protected; and 3) state the reasons why the information is proprietary. The Offeror cannot designate as Proprietary Information a) an entire proposal; b) any portion of a proposal that does not contain Proprietary Information; c) line item prices; or d) the total proposal price. The Town may decline to defend against a lawsuit filed against it to compel release of information designated as proprietary, but in that event the Town will provide reasonable notice to the Offeror regarding its decision to defend pending lawsuits.

## PRE-PROPOSAL MEETING

A pre-proposal meeting will be held to view the property on September 14, 2021 at 1:00 p.m.

Offerors who wish to attend should contact Alicia Clifton (276) 628-3167 on or before Friday, September 10, 2021 at 4:00 p.m.

After evaluation of the Proposals, the Town may engage in individual discussions and interviews with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses, and with competence to acquire and maintain the property. Repetitive informal interviews are permitted.

At the conclusion of the informal interviews and on the basis of evaluation factors set forth and the information provided and developed in the selection process to this point, the Town shall rank, in the order of preference, the interviewed Offerors whose offer is deemed most meritorious.

Negotiations shall then be conducted with top-ranked Offeror(s) and if a contract or contracts, in the general form as attached as Attachment E, Lease Agreement, satisfactory and advantageous to the Town can be negotiated at fees considered fair and reasonable, then the Town Manager shall make a recommendation to the Town Council concerning a contract(s) with that Offeror(s). The Town reserves the right to invite Offerors to submit a *Best And Final Offer*, (*BAFO*), if, in the Town's determination, such action is warranted. The Town Council shall retain final approval of any/all contracts generated as a result from this RFP.

The successful Offeror shall be responsible for any fees or taxes.

## ATTACHMENT A. PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION FORM

Code of Virginia 2.2-4342F (updated 07/01/18): “Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (a) an entire bid, proposal, or prequalification application; (b) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (c) line item prices or total bid, proposal, or prequalification application prices.”

Trade secrets or proprietary information shall be identified in writing on this form, either before or at the time the data or other material is submitted. Note: If proprietary/confidential information is identified, Bidder/Offeror must submit a redacted copy (in electronic PDF format) of their bid/proposal in addition to the required number of copies requested. The proprietary or trade secret material must be clearly identified in the redacted bid/proposal copy by a distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute a trade secret or proprietary information. The designation of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the offeror refuses to withdraw such a classification designation, the proposal will be rejected.

Name of Bidder/Offeror:

| SECTION/TITLE | PAGE NUMBER(S) | REASON(S) | FOR | WITHHOLDING | FROM |
|---------------|----------------|-----------|-----|-------------|------|
|---------------|----------------|-----------|-----|-------------|------|

DISCLOSURE

\*Bidder/Offeror may attach additional sheets if necessary

Check this box if there are none.

## ATTACHMENT B. STATE CORPORATION COMMISSION (SCC) FORM

### STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:

Pursuant to Code of Virginia 2.2-4311.2 subsection B, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid/proposal the identification number issued to it by the State Corporation Commission (SCC) and shall not allow the identification number to lapse, be revoked or cancelled at any time during the term of the contract. Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid/proposal a statement describing why the bidder/offeror is not required to be so authorized. A link to the SCC site is at <http://www.scc.virginia.gov>.

Select one of the following boxes. The undersigned Offeror :

- is a corporation or other business entity with the following SCC identification number:  
.
- is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust.
- is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location).
- is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia. Attach opinion of legal counsel to this form.
- has not completed any of the foregoing options but currently has pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wishes to be considered for a waiver to allow them to submit the SCC identification number after the due date for bids/proposals. The Town reserves the right to determine in its sole discretion whether to allow such waiver.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

(Print)

Name of Firm: \_\_\_\_\_

Title: \_\_\_\_\_

ATTACHMENT C. NON-COLLUSION AFFIDAVIT

Under oath, I hereby affirm under penalty of perjury:

- (1) That I am the offeror or a partner of the offeror, or an officer or employee of the offeror's corporation with authority to sign on its behalf;
- (2) That the attached proposal or proposals have been arrived at by the offeror and have been arrived at and submitted without collusion or any design to limit bidding or competition;
- (3) That the contents of the proposal or proposals have not been communicated to any person not an employee or agent of the offeror on any bid furnished with the proposal or proposals, and will not be communicated to any such person prior to the official opening of the proposal or proposals; and
- (4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print)

Name of Firm: \_\_\_\_\_

Title: \_\_\_\_\_

TOWN OF \_\_\_\_\_,

STATE OF \_\_\_\_\_, to wit:

I, \_\_\_\_\_, a Notary Public, do certify that \_\_\_\_\_ whose name is signed to the foregoing has this date acknowledged the same before me in my Town foresaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission expires \_\_\_\_\_.

Notary Public

## ATTACHMENT D. NOTICE OF EXCEPTIONS

Name of Bidder/Offeror:

List exceptions to any portions of ITB/RFP (i.e. General Terms & Conditions, Federal Terms & Conditions, Special Terms & Conditions):

- Check this box if there are none.

NOTE: THIS FORM IS NOT REQUIRED OR REQUESTED TO BE COMPLETED IN THE FOLLOWING INSTANCES. IF YOU FEEL THIS FORM DOES NOT APPLY TO YOUR SOLICITATION, PLEASE SELECT ONE OF THE FOLLOWING BOXES AND RETURN THIS FORM WITH YOUR BID/PROPOSAL SUBMISSION.

- Per Virginia Code § 2.2-4302.2 (3): “In the case of a proposal for information technology, as defined in § 2.2-2006, a public body shall not require an offeror to state in a proposal any exception to any liability provisions contained in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. The offeror shall state any exception to any liability provisions contained in the Request for Proposal in writing at the beginning of negotiations, and such exceptions shall be considered during negotiation.”
- Per Virginia Code § 2.2-4302.2 (4): “For architectural or engineering services, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations.”

\*This document shall be completed & returned with proposal submission.

ATTACHMENT E. LEASE AGREEMENT

**LEASE AGREEMENT**  
**by and between**  
**The TOWN OF ABINGDON, VIRGINIA**  
**And**

This LEASE AGREEMENT (“Agreement”), is made and entered into this \_\_\_\_ day of \_\_\_\_, 2021, between TOWN OF ABINGDON, VIRGINIA, a municipality organized under the laws of the Commonwealth of Virginia, (hereinafter referred to as “LESSOR”) and \_\_\_\_\_ (hereinafter referred to as “LESSEE”).

**WITNESSETH:**

For and in consideration of \_\_\_\_ paid by LESSEE to LESSOR, and in further consideration of the mutual terms and conditions contained herein, the Parties agree as follows:

1. **LEASE OF PREMISES:** LESSOR leases to LESSEE and LESSEE leases from LESSOR property located at 306 Depot Square (generally referred to as “Passenger Station”), Abingdon, Virginia and being that property shown as Tax Map No. \_\_\_\_\_, consisting of \_\_\_\_ more or less (hereinafter referred to as the “Premises”) as is depicted as the area outlined in blue on GIS plat, attached hereto as “Exhibit A”.

2. **TERM:** The term of this Lease shall be for three (3) years from the effective date first set forth above (the “Term”), which effective date shall also be known as the “Commencement Date”, unless sooner terminated in accordance with the terms hereof. Upon agreement between the Parties at least sixty (60) days prior to the expiration of the Term, the Lease may renew for an additional one (1) year term for up to two (2) one-year renewal terms. As used in this Agreement, the “Term” shall include the initial Term and Renewal Term.

3. **RENT:** LESSEE shall pay to LESSOR \$\_\_\_\_ monthly, due which amount shall be payable monthly in advance on the first day of each month during the Term. Any portion of the rent which has not been paid by the 10th day of the month shall incur a penalty of Fifteen Percent (15%).

**Deposit.**

a. Upon the execution of this Lease, LESSEE will pay and LESSOR will retain \_\_\_\_\_ (\$) as security for LESSEE’s performance of all of its obligations hereunder that were previously deposited. LESSOR shall return such sum to LESSEE within sixty (60) days following expiration of the Term if the LESSEE has performed all of its obligations. Prior to the time that LESSEE is entitled to the return of the security deposit, LESSOR may intermingle such deposit with its own funds and use the deposit for whatever purposes it desires. LESSEE shall not receive any interest on the security deposit.

b. If LESSEE defaults in the performance of any of its obligations hereunder including, but not limited to, the payment of any rent or additional rent, the LESSOR may use, apply, or retain all or any part of such security deposit for the payment of any unpaid rent or additional rent, or for any other amount which the LESSOR may be required to spend by reason of the

LESSEE default, including any damages or deficiencies in the re-letting of the Premises regardless of whether the accrual of such damages or deficiencies occurs before or after an eviction or other reentry by the LESSOR.

3. COVENANTS OF LESSEE. LESSEE hereby covenants and agrees with LESSOR that it will, during the term of this Lease:

- (1) Pay the Rent at the time and in the manner prescribed, without demand;
- (2) Keep the Premises, including building and other improvements in as good a condition as they were at the beginning of the Initial Term, ordinary wear and tear excepted;
- (3) Permit LESSOR or their agents to enter upon the Premises at all reasonable times to examine their condition, or for any other purpose reasonably related to its obligations or rights under this Lease, or as owner of the property;
- (4) Use and occupy the Premises in compliance in all material respects with all laws, rules, regulations and administrative orders of governmental agencies (together "Laws"); and
- (5) Arrange at their expense for utilities and to pay for the same as they become due;
- (6) Pay all maintenance, repairs, and replacement costs and expenses applicable to the interior of the Premises;
- (7) Pay any applicable taxes on the property caused by the lease of the Premises; and
- (8) Maintain at its expense fire and extended coverage insurance on the improvements on the Leased Premises which are insurable (with policies naming Lessor as additional insured and to whom certificates of insurance shall be furnished) with minimum limits which accurately reflect the replacement values of the improvements.

4. CONDITION OF PREMISES: LESSEE shall accept the Premises in its "as is" condition as of the time of the execution of this Agreement.

5. INSURANCE: Prior to its occupancy of the Premises, LESSEE shall, at its own expense, obtain and maintain in full force and effect during the term of this Agreement the following insurance: (i) such Insurance as may be necessary to insure the value of LESSEE'S personal property and fixtures on or about the Premises; and (ii) general liability Insurance for the personal injury and/or property damage with limits of no less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000.00) per aggregate. Such insurance shall be carried in favor of LESSEE and LESSOR as their respective interest may appear and LESSEE'S insurance company must be acceptable to LESSOR. LESSEE shall provide to LESSOR from time to time upon LESSOR'S request a certificate from LESSEE'S insurance company evidencing that such Insurance is in effect.

6. INDEMNIFICATION: LESSEE covenants and agrees to indemnify, protect, defend and forever hold harmless LESSOR and its agents, and each of them, from and against any and all damages (including but not limited to consequential damages), losses, injuries, liabilities, costs, expenses, claims, actions and liabilities whatsoever, arising from or growing out of, in whole or in part, directly, indirectly or otherwise, this Agreement, and/or any and all exercise(s) of the rights assumed in connection herewith, unless such claims are a result of the negligence of LESSOR, its affiliates, successors or assigns. The foregoing indemnity obligations are in addition

to, and not in lieu of, LESSEE'S other agreements, covenants and obligations hereunder and shall survive cancellation, termination or expiration of this Agreement.

7. **DAMAGE BY CASUALTY:** If during the term of this Agreement, the Premises are damaged by fire, water, explosion, the elements, or other casualty, so that the same is thereby wholly or partially destroyed, so as to be rendered unfit for use by LESSEE, and it appears the same cannot with reasonable diligence be repaired and made fit for such use within ninety (90) days from the happening of any such event, then this Agreement may be terminated by either LESSOR or LESSEE, provided notice of such termination be given by the one so terminating this Agreement to the other, as soon as it appears that the Premises cannot with reasonable diligence be repaired and made fit for such use and occupancy within said period of ninety (90) days.

8. **UTILITIES:** LESSEE shall promptly pay and be solely responsible for all electricity, telephone, water and all other utility bills and charges for all such services supplied to the Premises, if any.

9. **MAINTENANCE AND REPAIRS:** Unless specified otherwise in this Agreement, LESSEE shall maintain the Premises and keep the same in reasonably good condition and repair during the term of this Agreement. LESSOR shall, at its own cost and expense, maintain and repair the buildings, including but not limited to, the roof, exterior walls, and structural aspects, parking lots and driveways, and perform needed repairs to all heating systems, plumbing systems and pipes and fixtures, air conditioning equipment, electrical systems and wires and fixtures, except for any maintenance and repairs to glass, doors, and windows, that are the responsibility of LESSEE or that are necessitated by the acts or omissions of LESSEE or its employees, agents, contractors or invitees. LESSEE shall give LESSOR prompt notice of any needed repairs.

10. **IMPROVEMENTS:** LESSEE shall make no alterations, additions, modifications or improvements (hereinafter referred to as "improvements") to the Premises without prior written consent of LESSOR during the term(s) of this Agreement. To the extent made, LESSEE agrees that all such improvements shall be done in a prudent and workmanlike manner and that LESSEE shall be responsible for all costs in connection therewith. LESSEE shall also keep the Premises free and clear of all liens arising from work performed and materials furnished for such improvements. Any such improvements which are temporary in nature, and which can be removed from the Premises without affecting the structural stability and/or causing defacement of the Premises, may be removed by LESSEE at its expense, within thirty (30) days, upon termination (at whatsoever time and for whatsoever reason) of this Agreement. Such improvements that cannot be removed shall become the property of LESSOR and shall remain in and upon the Premises at the termination of this Agreement without LESSOR in any way compensating LESSEE for the same.

11. **REMOVAL OF TRADE FIXTURES:** Trade fixtures, if any, that LESSEE may have installed, added to or put in or on the Premises, either under previous lease between the parties or subsequent to the execution of this Agreement, may be removed by LESSEE, at its expense, within thirty (30) days, upon termination (at whatever time and for whatever reason) of this Agreement, provided the same can be removed without injury to or defacement of the Premises, or provided LESSEE can and does at the time of such removal repair the premises to the same or as good condition as the same was prior to the installation or addition thereof, reasonable wear, tear and deterioration excepted.

12. **SIGNS:** LESSEE shall have the right to display any sign(s) on the Premises Identifying LESSEE, subject to any and all laws and governmental regulations regarding such signage.

13. **SURRENDER OF PREMISES:** Subject to the other provisions of this Agreement, LESSEE shall peaceably and quietly surrender the Premises at the termination of this Agreement with all of LESSEE's signs removed, and in as good condition as received at the inception of this Agreement, reasonable wear, tear, and deterioration excepted.

14. **LESSOR'S RIGHT TO EXAMINE PREMISES:** LESSOR shall have free access to the Premises.

15. **DEFAULT:** (a) LESSEE shall be deemed to be in default hereunder if LESSEE shall fail to keep or perform any term, condition or covenant of this Agreement to be kept or performed by LESSEE, within thirty (30) days after written notice thereof from LESSOR. If any event of default occurs, after any applicable cure period, then LESSOR may pursue any remedy at law or in equity. (b) LESSOR shall be deemed to be in default hereunder if LESSOR has failed to perform or violated any of its duties and responsibilities, and such failure or violation shall continue for a period of thirty (30) days after written notice by LESSEE. If any event of default occurs, after any applicable cure period, then LESSEE may terminate this Lease effective immediately.

16. **ASSIGNMENT/SUBLEASE OF PREMISES:** LESSEE shall not assign this Agreement or sublease the Premises to any third party, in whole or in part, without LESSOR'S prior written consent. Should such written consent be given, no such assignment or sublease shall in any way release or relieve LESSEE from any of its obligations herein contained, and LESSEE shall in all cases remain liable under this Agreement during the term thereof.

17. **CONDEMNATION:** In the event the Premises shall be acquired or condemned by any public or quasi-public authority under the power of condemnation, eminent domain or appropriation, this Agreement shall terminate as of the date of possession shall be taken by such authority.

18. **NON-WAIVER:** Failure, or delay of either Party to exercise any of its rights, remedies or defenses upon and pertaining to the default, nonperformance, mal-performance and/or the otherwise defective performance of the other Party of any term, provision, condition, covenant, agreement and/or stipulation herein contained shall not be construed as a waiver of either Party's rights, remedies, and/or defenses, in whole or in part. Nor shall the acceptance or waiver by either Party of the default, nonperformance, mal-performance and/or the otherwise defective performance (in whole or in part) of any herein contained term, provision, condition, covenant, agreement and/or stipulation upon the part of the other Party to be construed as a waiver of either Party's rights, remedies and/or defenses, in whole or in part, as to any subsequent hereunder occurring default, nonperformance, mal-performance and/or otherwise defective performance (in whole or in part) of any herein contained term, provision, condition, covenant, agreement and/or stipulation (whether or not similar) upon the part of the other Party.

19. CUMULATIVE REMEDIES: In addition to their rights, remedies and defenses herein provided, the Parties hereto, respectively, shall have the right to pursue and exert any and all rights, defenses and remedies it may have under the law of the Commonwealth of Virginia or otherwise concerning any violation and/or default by the other Party of any term, provision, condition, covenant, agreement or stipulation hereof to the effect that all of LESSOR'S and LESSEE'S respective rights, defenses and remedies shall be cumulative and not exclusive.

20. MODIFICATION OF AGREEMENT: No modification, attention, waiver, supplement or amendment to this Agreement, or any part hereof, shall be valid and binding upon the Parties unless it is in writing and fully executed by the Parties. No evidence of any such modification, alteration, waiver, supplement or amendment of this Agreement, or any part hereof, shall be received in any controversy arising out of or pursuant to same unless it is written and executed as aforesaid.

21. ENTIRE AGREEMENT: This Agreement sets forth the entire agreement between the parties relative to the Premises, and there are no promises, oral or written, express or implied, between them other than herein set forth.

22. GOVERNING LAW: This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia.

23. PARAGRAPH HEADINGS: The titles of the paragraphs of this Agreement are solely for the convenience of the Parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

24. DUPLICATE EXECUTION: This Agreement may be executed in duplicate each of which shall be deemed to be an original but both of which together shall constitute but one and the same instrument.

IN TESTIMONY WHEREOF, each Party to this Agreement has caused it to be executed on the date first above written.

LESSOR:

TOWN OF ABINGDON, VIRGINIA

\_\_\_\_\_  
By: \_\_\_\_\_

LESSEE:

By: \_\_\_\_\_